

REMARKS

This application is in condition for allowance at the time of the next Official Action.

Claims 1-22 remain pending, and claims 15 and 16 remain withdrawn for being directed to a non-elected species.

Claims 1-14, 17-19, and 22 were rejected under 35 USC 103(a) as allegedly being unpatentable over CASTELLI et al. US 7,008,627 ("CASTELLI") in view of KOCH et al. US 7,166,310 ("KOCH") in view of BOMBARDELLI et al. US 6,419,950 ("BOMBARDELLI") in view of TAMEMOTO et al. ("TAMEMOTO"). This rejection is respectfully traversed.

The Official Action offers CASTELLI for beneficially teaching extracts obtained from *Ginkgo biloba* leaves which include terpenes, and that the extracts have excellent anti-inflammatory activity.

KOCH is offered for topical medicaments comprising *Hypericum perforatum* L. having a hyperforin content of 2% to 4%.

BOMBARDELLI is offered for teaching an extract of a pericarp of *Zanthoxylum bungeanum*.

TAMEMOTO is offered for teaching ethyl acetate extracts of air dried fruits of *Ferula kuhistanica* exhibit antibacterial activity.

The position of the Official Action is that it would have been obvious to combine the components to treat a patient in

need thereof as the components are used for the same purpose, and that the "adjustment of particular conventional working conditions (i.e. percentage amounts of the instant extracts) is deemed merely a matter of judicious selection and routine optimization".

However, the proposed combination fails to render obvious the claims for at least three reasons:

I. The combination does not teach the claimed invention.

CASTELLI does not teach *Gingko biloba* extracts beneficially containing terpenes with excellent anti-inflammatory activity, as stated in the Official Action.

CASTELLI suggests that the anti-inflammatory activity in *Gingko biloba* extracts to be attributed to the flavone fraction, not the terpene fraction. See, e.g., column 4, lines 41-67. Indeed, CASTELLI explicitly discloses at column 4, lines 53-60 that the *Gingko biloba* extracts are obtained from leaves that have a reduced terpene concentration, e.g., less than approximately 7% w/w of dry extract, preferably less than 3% w/w of dry extract, and in one embodiment less than 1% w/w of dry extract.

This is contrary to the presently claimed invention, where the *Gingko biloba* terpenes are a critical and essential feature. See, e.g., claims 1 and 22 in light of the present

specification, as well as dependent claims 3-10. That is, the present specification, "'*Gingko biloba* terpenes' herein means the terpenes, either pure or in a mixture wherein the total triterpenes content ranges from 60 to 100%". See, e.g., specification page 2, lines 19-25.

None of the other cited publication discloses or suggests *Gingko biloba* terpenes, and, thus, none of other publication can remedy this shortcoming of CASTELLI for reference purposes.

II. The ingredients disclosed are not used for the same purpose.

In particular, *Gingko biloba* terpenes are not even considered by CASTELLI. CASTELLI removes terpenes from *Gingko biloba* extracts to make them "particularly suitable for the implementation of the invention", e.g., to a content less than approximately 7% w /w of dry extract, preferably less than 3% w/w of dry extract, and in one embodiment less than 1% w/w of dry extract. See, e.g., column 4, lines 47-60.

Thus, CASTELLI fails to recognize *Gingko biloba* terpenes as having any purpose, let alone any type of anti-inflammatory treatment.

III. There would be no reason to adjust of the amount of *Gingko biloba* terpenes to that as claimed.

CASTELLI removes terpenes from *Gingko biloba* extracts to make them "particularly suitable for the implementation of the invention", and that a higher concentration of flavones is advantageous. Thus, increasing an amount of terpenes, e.g., as claimed in dependent claims 3-10, would have been contrary to the teachings of CASTELLI, and one of ordinary skill in the art would have been discouraged from doing so.

Therefore, for the three reasons discussed above, withdrawal of the rejection is respectfully requested.

Claims 20-21 were rejected under 35 USC 103(a) as allegedly being unpatentable over CASTELLI in view of KOCH in view of BOMBARDELLI in view of TAMEMOTO, further in view of PARRINELLO US 5,578,312 ("PARRINELLO") and LUPULET. This rejection is respectfully traversed.

CASTELLI, KOCH, BOMBARDELLI, and TAMEMOTO are offered for the reasons discussed above.

PARRINELLO is offered for teaching evening primrose and lauric acid in a skin composition.

LUPULET is offered for teaching *Oenothera biennis* oil as an ingredient in a skin composition.

However, regardless of the ability of PARRINELLO and LUPULET for teaching that for which they offered, they fail to remedy the shortcomings of the combination of CASTELLI, KOCH, BOMBARDELLI, and TAMEMOTO discussed above. Neither PARRINELLO

nor LUPULET discloses *Gingko biloba* terpenes as a desired ingredient for a topical composition.


Therefore, the proposed combination cannot render obvious the claims, and withdrawal of the rejection is respectfully requested.

In view of the foregoing remarks, the present application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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